

Centre for Crime and Justice Studies, Electronic Monitoring Investigation— Written evidence (ETM0009)

This submission has been written by Dr Roger Grimshaw, Research Director. No generative AI has been used.

Purpose and strategy

1. What is the purpose of electronic monitoring? Is it punitive, rehabilitative, controlling, or something else?
 - 1.1. The design and application of Electronic Monitoring (EM) can be described as chameleon-like: the imposition of technological controls, combined with additional requirements, supervisory and support systems, can be varied in ways that enhance control, or punishment or rehabilitation. The balance among these has to be reviewed in the light of trends in the evidence, and related to particular legislative purposes.
 - 1.2. The use of EM in enforcing sustained curfews is primarily punitive. Its increasing use in tracking and enforcing exclusion zones is intended to control and deny criminal opportunities. The scope, frequency and responsiveness of support should make accessible rehabilitative resources, as in a conventional probation intervention. However, the primary purpose is control, backed by sanctions, which suggests that the term 'monitoring' is inadequate and somewhat disingenuous: should we not be talking about 'Electronic Restriction Orders'? Greater clarity would reduce the risk of allowing these sanctions to be applied to cases where control is not a priority, thus wasting resources.
 - 1.3. The recent predominance of bail cases over post-release and community supervision as well as the specific growth of EM in relation to immigration bail suggests the rise of control as a guiding motivation.¹ An important conclusion from reviewing EM practice is that it equates to forms of carceral control: indeed, EM is treated in law as a form of custody. If an electronic bail curfew of at least nine hours is ordered, such a day is deducted from any subsequent prison sentence at the rate of a half-day of imprisonment, thus testifying to the practical equivalence.
2. What is the evidence base for the use of electronic monitoring? Does it actually work, and how is this measured (both whilst subject to electronic monitoring and afterwards)?
 - 2.1. Groups are selected for EM and therefore results are selection-dependent. Some studies have sought to compare outcomes for similar groups, which provides a more valid assessment. The importance of selection is clear in the case of breach rates. They are governed by the interpretation and application of rules, so variations in rates can be

¹ Ministry of Justice (2024), *Electronic Monitoring Statistics*. Annual Publication, March.

explained by the strictness of enforcement, not simply the behaviours of EM subjects.²

2.2. Wide-ranging reviews suggest that, at best, EM has decidedly modest effects on whether a person will receive a future caution or conviction; challenges in comparing various projects' outcomes imply that there is no 'gold standard' model emerging from research.³ However, the evidence is strong that support from experienced and properly trained supervisors, as in probation, can make a difference to outcomes.⁴ In England and Wales, specific studies have reported at least some positive effects. When similar offenders were compared, HDC did not raise the reoffending rate beyond that found among those ineligible for it.⁵ A study has found that adults on community orders or suspended sentences with an EM curfew showed lower reoffending rates over 12 months from the date of conviction than for matched groups on these sentences without EM, though it is implied that any influence of EM may wane over time.⁶ These findings are consistent with the notion that curfews help to disrupt social network connections which facilitate actions likely to be of interest to the police.⁷ A recent study using courts data has shown that Alcohol Abstinence Monitoring Requirements are associated with reduced reoffending.⁸

2.3. The last government committed itself to an evidence-based approach to EM, collecting and analysing data in order to clarify and enhance benefits. So far, the multiple pilot evaluation reports tend to shed more light on challenges of delivery than firm evidence about outcomes.⁹

3. How does the use of electronic monitoring in England and Wales compare to other regions (both within the United Kingdom and internationally)?

3.1. In Scotland, EM has been used for some years, with significant recent changes. Bail with the option of electronic monitoring has been

² Hucklesby, A, Beyens, K., and Boone, M. (2020), 'Comparing electronic monitoring regimes: length, breadth, depth, weight equals tightness.' *Punishment and Society*.23.1

³ Belur, J., Thornton, A., Tompson, L., Manning, M., Sidebottom, A., and Bowers, K. (2020), 'A systematic review of the effectiveness of the electronic monitoring of offenders', *Journal of Criminal Justice*, Vol 68.

⁴ Graham, H. and McIvor, G. (2015), *Scottish and International Review of the Uses of Electronic Monitoring*, The Scottish Centre for Crime and Justice Research.

⁵ Marie, O., Moreton, K., and Goncalves, M. (2011), *The effect of early release of prisoners on Home Detention Curfew (HDC) on recidivism*, Ministry of Justice.

⁶ Brunton-Smith, I. (2025), *Assessing the effectiveness of Radio Frequency Electronic Monitoring for Community and Suspended Sentence Orders, PNC-based proven reoffending analysis*, Ministry of Justice.

⁷ Fitzalan Howard, F. (2018), 'The experience of electronic monitoring and implications for practice: A qualitative research synthesis,' *The Howard Journal of Crime and Justice*, 59.1

⁸ Lightowlers, C. (2024), 'Enforced alcohol abstinence: does it reduce reoffending?', *Data Insight*, Administrative Data Research UK.

⁹ Read, T., Charleton, B. and Duckworth, L. (2024), *GPS Knife Crime Tagging, Final Evaluation Report*, MOPAC Evidence and Insight; Davey, M., Yates, J., and McAlonan, D. (2025), *Process Evaluation of the Electronic Monitoring as Licence Variation Project*, Ministry of Justice; Yates, J., McAlonan, D. and Omoruyi, L.(2025), *Process Evaluation of the Acquisitive Crime Electronic Monitoring Project: 12 month+ cohort*, Ministry of Justice ; Rolls, E., Youle, Y., and Hartwright, C. (2024), *Electronic Monitoring of Domestic Abuse Perpetrators on Licence. Process Evaluation*, Ministry of Justice.

available across Scotland since 2023. The Scottish government has only recently authorised the use of GPS technology.

- 3.2. European Probation Rules lay out the principles which are expected to guide the implementation of EM. Research found a broad but sometimes merely formal adherence to the vague Council of Europe recommendation (Recommendation CM/Rec (2014) 4) on electronic monitoring in EU member states.¹⁰ The number of EM cases varies in Europe, indicating that England and Wales has been a high user of EM.¹¹
- 3.3. In some countries there is a state monopoly of provision, unlike the UK. Large private providers dominate the market in the UK, with adverse consequences for effective government supervision.¹² The recently reported failures to reach performance standards will come as no surprise to people familiar with the chequered history of EM administration in England and Wales. A greater degree of state ownership and regulation could reduce these considerable risks and create the opportunity for probation to direct and manage EM.
- 3.4. Comparative analysis has shown that the replacement of imprisonment by EM only becomes a possibility when jurisdictions explicitly take that step, rather than hoping for it to evolve naturally.¹³
- 3.5. Jurisdictions differ in the menu of requirements they can demand from EM subjects. These may include some work-related obligation, programme participation or drug testing. Which elements will be influential on desistance is not easy to prescribe in advance. For example, the addition of work requirements, as in Finland, can be disappointing to subjects if not tied to their aspirations and labour market needs.¹⁴ In practice EM is therefore a complex 'chameleon' experience for users, which can increase its weight as a sanction and add to the demands of engagement with user needs.
- 3.6. Bi-lateral monitoring technologies available in other jurisdictions such as the USA give victims information about the whereabouts of the EM subject. While compliance rates have been found to be good, there are disadvantages: the police need to be able to intervene in a timely fashion to alerts; the victim can feel additional stress from the responsibility placed on her or him.¹⁵

Ethics

¹⁰ Hucklesby, A., Beyens, K., Boone, M., Dünkel, F., McIvor, G., and Graham, H. (2016), *Creativity and Effectiveness in the use of electronic monitoring: a case study of five jurisdictions*, Confederation of European Probation.

¹¹ Hucklesby et al. (2020), op cit.

¹² Comptroller and Auditor General (2022), *Electronic monitoring: a progress update*, National Audit Office; Nellis, M. (2017), *Grayling's failings on electronic monitoring: after the fiasco, what next?* Centre for Crime and Justice Studies; Comptroller and Auditor General (2017), *The new generation electronic monitoring programme*, Session 2017-2019, HC 242, National Audit Office, July.

¹³ Dünkel, F. (2018), 'Electronic Monitoring in Europe – a Panacea for Reforming Criminal Sanctions Systems? A Critical Review', *Kriminologijos studijos*, 6, 58-77.

¹⁴ Villmann, E. (2022), 'Early release from prison with electronic monitoring: Hook for or hindrance to change?' *Criminology & Criminal Justice*, 1-20.

¹⁵ Hucklesby, A. and Holdsworth, E. (2020), *Electronic monitoring in probation practice*, Her Majesty's Inspectorate of Probation.

4. To what extent is electronic monitoring being used consistently and proportionately?

- 4.1. We should avoid bland language about EM: it is primarily a denial of physical liberty and a form of detention; it is intrusive and applied to the body; and has the potential to stigmatise. Hence it qualifies at the higher end of sanctions, at a different level from measures like conventional community orders. Its use as an extension of the prison is an acknowledgment of its serious nature, helping to legitimise its particular place in bail and licence provision. Similarly, schemes to implement and exploit its equivalence with imprisonment, as a genuine alternative, would have merit if consistently applied to the current prison population crisis.
- 4.2. What is evident in England and Wales is a strong push to extend the use of EM, through new technology, new target groups, and fresh pilots. Recent statistics have shown the pace of developments, especially for immigration, for licence and for young people, which are increasing the scope of its use. The exceptions seem to be community orders and suspended sentences, which have declined since 2021. The fast moving picture raises questions about how a complete assessment capable of arriving at a coherent policy will be conducted. At first sight the rise of bail and licence uses appears to conform with its status as an intrusive restriction of liberty. However, questions persist: to what extent is the availability of the technology driving its extension, and how far is its use being managed and targeted to cases for which active and regular surveillance should be mandatory?
- 4.3. Recent efforts to divert possible cases of remand towards EM and other alternatives have made insufficient impacts on the remand population, which has reached a record level.¹⁶ The decline in court sentence cases needs to be seen against the background of staff shortages in probation. There is evidence that HDC has been used selectively, targeting women and less prolific offenders.¹⁷ These findings imply that HDC could have been used somewhat more often. More recently, the eligibility conditions have changed and increases in HDC for those serving longer sentences have been seen. However, the recall rate has reached almost 20 per cent.
- 4.4. There are strategic legislative opportunities for the government to rationalise and limit the application of EM to cases where the custodial justification is clear and such steps would help persuade sentencers to be more active in endorsing the replacement of institutional incarceration by EM, or stipulating the offer of a period of EM as a later part of a custodial sentence, subject to conditions. Success would depend on a substantial reinforcement of probation services.

5. What is the impact of electronic monitoring on the individual, their family, and (where applicable) victims? How is this considered, and how is this

¹⁶ Prison Reform Trust (2025), *Bromley Briefings Prison Factfile*.

¹⁷ Marie et al. (2011), *op cit*.

assessed?

5.1. International research has shown that subjects respond to different aspects of EM in a variety of ways.¹⁸ The relative freedom compared to prison can be welcomed and there are opportunities to reflect and change; however, the experience can be stressful. In the UK a failure of impact monitoring for key population groups, including by age, gender and ethnicity was reported.¹⁹ It will take far more effort than has been shown in the past to reveal the full extent of impacts. Recently-published government data have focused on age and gender.

5.2. Impacts on the user's cohabitants can be problematic depending on the extent of inconvenience and embarrassment.²⁰ It is important to clarify how progress has been made to remedy the policy shortfall, which led inspectors to express concerns that a failure to mandate safeguarding assessments has exposed families to possible abuse. A user and family survey around these themes would make a start in addressing current experiences and needs.

6. To what extent is informed consent being gained from those subject to electronic monitoring (particularly with reference to those on immigration bail)?

6.1. There are challenges of informed consent with vulnerable and immature groups who find difficulty in foreseeing consequences. In addition, unfamiliarity with life in the UK and difficult transitional circumstances may reduce the ability of individuals to deal with contingencies and mitigate possible disruption. A pilot approach to using EM with those who arrive in the UK by 'unnecessary and dangerous' means has been under way, which has set out a number of grounds for exclusion from the scheme that will apply to vulnerable people. However, a GPS pilot for asylum claimants on bail did not improve their compliance or prevent absconding.²¹

7. Is the use of electronic monitoring discriminatory, particularly in relation to age, gender, race, body composition, and language?

7.1. There are serious questions about the application of EM to children and young people, who are both immature and less able to manage their accommodation and affairs independently. Ensuring compliance involves demands which they may struggle with, while the consequences of non-compliance may not be clear-cut in their minds. Typically, like many imprisoned at that age, the children will have suffered trauma, which calls for sensitive and informed work. In practice, EM will place a heavy responsibility on carers of children. Use of EM, which always carries an

¹⁸ Fitzalan Howard (2018), op cit.

¹⁹ Comptroller and Auditor General (2022), op cit.

²⁰ Belur et al. (2020), op cit.

²¹ Home Office Analysis and Insight (2025), *GPS expansion pilot evaluation*.

equivalence with imprisonment, threatens to continue the 'adultification' of youth justice.²²

- 7.2. Some evidence does suggest that women are disadvantaged compared with men in their experience, for example in relation to child care.²³ There is an understandable wish to avoid the imprisonment of women with responsibilities to dependents. Any alternative use of EM should be justified solely by the imperative need for a custodial sentence, and not misused as a lesser sanction, for example, in place of fines.

8. What are the data protection and privacy concerns around the use of electronic monitoring?

- 8.1. The multi-agency structures around EM mean that sharing data is important especially at critical moments. These include private companies, whose obligations need to be spelled out contractually. Companies based outside the UK need to be held practically accountable for any data loss or breach of privacy.²⁴ In a recent policy announcement, the Scottish government has helpfully referred to compliance with Article 6 of the UK GDPR.
- 8.2. In Germany, legal restrictions have been imposed on the retention period for data generated by GPS technology as well as the scope and relevance of data that has been actionable. This is to ensure that the large volume of information produced is not used for matters extraneous to the original purpose.²⁵ Last year the Information Commissioner issued an Enforcement Notice against the Home Office for its failings in attention to the necessity and proportionality of its practices in relation to immigration bail. EM practice is often intrusive, not least because every part of a property has to be tested for signals to be reliable. EM users do feel shame and embarrassment.²⁶ Devices can be embarrassing for associates also, reinforcing the need to ensure effective privacy protocols will safeguard cohabitants and other key contacts and supporters.

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²² Arnett, C (2018), 'Virtual Shackles: Electronic surveillance and the adultification of juvenile courts', *The Journal of Criminal Law and Criminology* Vol. 108, No. 3.

²³ E.g. Holdsworth, E. and Hucklesby, A. (2014), 'Designed for men, but also worn by women', *Criminal Justice Matters* 95 March

²⁴ Confederation of European Probation (2024), *Practice recommendations regarding technologies in probation*.

²⁵ Eilzer, S. (2014), 'Data protection and electronic monitoring in Germany', *Criminal Justice Matters* no. 95. pp. 8-9.

²⁶ Fitzalan Howard (2018), *op cit*.